

REMARKS

By this paper, independent claims 1 and 72 have been amended. Claims 9-13, 15, 29-46, 48, 49, 56, 61, 62, 70, 72-79 and 87-93 are pending.

In the outstanding Office action dated November 12, 2004, claims 9-13, 15, 29-46, 48, 49, 56, 61, 62, 70, 72-79 and 87-93 were rejected under 35 U.S.C. § 112, second paragraph as being indefinite and claim 9 was specifically identified as being confusing in view of the recitation therein of an expandable frame being longitudinally separated from a graft. Independent claim 72 was also characterized as being indefinite for the same reason. It is believed to be significant that in the Office action dated October 29, 2003, claims 9 and 72 were rejected under § 112, second paragraph for similar reasons. In a response filed January 29, 2004, it was respectfully submitted that the subject matter recited in the claims did indeed satisfy the requirements of § 112. Further, it was stated "Each of claims 9 and 72 recite an expandable frame that is longitudinally spaced from a graft component. It is the attaching structure itself that spaces what is defined in claims 9 and 72 as an expandable frame. Irrespective of whether the attaching structure is considered integral to the frame or not, it remains that the attaching structure does indeed space the expandable frame from the graft component. Significantly, claims 9 and 72 make a distinction between the expandable frame and the attaching structure. By making this distinction, claims 9 and 72 are just as clear as a claim which might require a proximal or superior end of an expandable frame to be spaced from the graft component. It is respectfully submitted that it is not logical to conclude that an expandable frame is not spaced from the graft component because the attaching structure extends therefrom to a graft component just as it would not be logical to conclude that a proximal or superior end point of an expandable frame is not longitudinally spaced from a graft component because of other structure extending from the proximal or superior point of the expandable frame to a graft component." Subsequent

to making these arguments, the § 112 rejections of claims 9 and 72 were dropped in the Office action dated April 7, 2004, only to be again raised in the outstanding Office action. Accordingly, Applicants again respectfully submit that claims 9 and 72 and their dependent claims satisfy the requirements of § 112, second paragraph. Again, it is believed that it is proper to separately recite an expandable frame from an attaching structure and to require the expandable frame to be longitudinally separated from a graft component.

In the outstanding Office action, claim 62 was also found to be improper under § 112, second paragraph as it was not understood by the Examiner where the end points that are larger than a strut thickness are found in the elected species. In response thereto, the Applicants respectfully refer the Examiner's attention to the elected subject matter depicted in FIG. 1P which clearly depicts end points which are larger than depicted strut thicknesses. Thus, it is believed that claim 62 also satisfies the requirements of § 112.

In the November 2004 Office action, claims 9-13, 15, 29-33, 35-40, 42, 56, 61, 62, 70, 72, 88-90, 92 and 93 were rejected under 35 U.S.C. § 102(e) as being anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as obvious over Kugler et al. (6,280,466). Additionally, claims 34, 43-46, 48, 49 and 73-79 were rejected under § 103(a) as being unpatentable over Kugler et al. and claims 41, 87 and 91 were rejected under § 103(a) as being unpatentable over Kugler in view of Dehdastian et al. (6,368,345). It is respectfully submitted, however, that the cited art does not teach the subject matter recited in the amended claims. In particular, the Kugler et al. patent does not teach a graft or an endovascular graft including a graft component with an opening having an opening circumference, wherein the opening of the graft component lacks other structure supporting a totality of the opening circumference as is recited in each of the examined claims. On the contrary, the Kugler patent discloses a graft having an opening that

is completely supported about its circumference. Therefore, it is respectfully submitted that each of the pending claims now define patentable subject matter.

CONCLUSION

Applicant has attempted to completely respond to the rejections set forth in the outstanding Office action. In view of the above amendments and remarks, Applicant respectfully requests that the application be reconsidered, the claims allowed and the application passed to issue.

Respectfully submitted,

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